

REMARKS

By this response, Claim 75 has been amended without narrowing its scope. Claims 72-93 are pending in the application.

Reconsideration and allowance of the application are respectfully requested in light of the following remarks.

Rejections Under 35 U.S.C. §§ 102 and 103

(a) Claim 72 stands rejected under 35 U.S.C. § 102(a) over JP 08264518A to Asanome et al. ("JP 518") for the reasons stated on pages 2-3 of the Official Action; (b) Claims 73, 74 and 76-83 stand rejected under 35 U.S.C. § 103(a) over JP '518 in view of U.S. Patent No. 5,169,509 to Latz et al. ("Latz") for the reasons stated on pages 3-6 of the Official Action; (c) Claim 75 stands rejected under 35 U.S.C. § 103(a) over "Asanome et al. (USPat. 6,013,155)"¹ for the reasons stated on pages 7-8 of the Official Action; (d) Claims 84-87 and 89-93 stand rejected under 35 U.S.C. § 103(a) over JP '518 in view of U.S. Patent No. 5,691,876 to Chen et al. ("Chen") for the reasons stated on pages 7-11 of the Official Action; and (e) Claim 88 stands rejected under 35 U.S.C. § 103(a) over JP '518 and Chen and in view of Latz for the reasons stated on pages 11-12 of the Official Action.

The present application is a divisional of U.S. Patent Application No. 08/772,374, which was filed on December 23, 1996, and is now U.S. Patent No. 6,184,158. JP '518, which has been applied as a reference in each of the grounds of

¹ U.S. Patent No. 6,013,155 is to McMillin et al. However, as indicated at numbered paragraph 1 at page 2 of the Official Action, the previously-made rejection over McMillin has been overcome and withdrawn. The reasons for this rejection stated at numbered paragraph (6) of the Official Action refer only to Asanome et al. Accordingly, for purposes of this response, it has been assumed that this rejection is over JP '518 to Asanome et al. taken alone.

rejection, was published on October 11, 1996. As such, JP '518 has been applied as *prima facie* prior art under 35 U.S.C. § 102(a) against the present application.

As discussed at MPEP § 715.07(III), page 700-250, a prior invention (with respect to JP '518) can be established by submission of a Declaration Under 37 C.F.R. § 1.131 that includes evidence of "reduction to practice of the invention prior to the effective date of the reference." Accordingly, in order to establish an earlier invention date than the October 11, 1996 effective date of JP '518, and thus to eliminate JP '518 as a prior art reference against the present application, Applicants have attached a Declaration Under 37 C.F.R. § 1.131 by Brian McMillin and Butch Berney ("Rule 131 Declaration") who are two co-inventors of the claimed invention. The other named co-inventors, Paul Shufflebotham, Alex Demos, Huong Nguyen and Monique Ben-Dor are no longer employed at Lam Research Corporation, the assignee of this application, and so they are unavailable to execute the Rule 131 Declaration.

The Rule 131 Declaration provides evidence that the subject matter recited in independent Claims 72, 75 and 85 existed prior to October 11, 1996. The claimed subject matter also worked for its intended purpose. Thus, Applicants have established a reduction to practice of the claimed subject matter prior to the effective date of JP '518. As such, JP '518 has been eliminated as a reference under 35 U.S.C. § 102(a) against the claimed subject matter. Therefore, withdrawal of the rejection is respectfully requested.


Conclusion

For the foregoing reasons, allowance of the application is respectfully requested. Should the Examiner have any questions regarding this response, Applicants' undersigned representative can be reached at the telephone number given below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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By: 
Edward A. Brown
Registration No. 35,033

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620